FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

APPEAL FROM ORDER NO. 800 OF 2004.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders. :	:	Court's or Judge's orders

R.A.Thorat i/b. B.P.Shukla
for the appellant.

J.Xavier for the respondent.

CORAM: V.C.DAGA,J.

DATED: 16th September 2004.

P.C.:

. During the course of hearing, Mr.Thorat, learned counsel for the appellant sought permission to withdraw notice of motion with liberty to move fresh motion after carrying out necessary amendment to the plaint. He submitted that immediately steps would be taken to amend plaint under order 6 rule 17 of C.P.C. According to him, this process would take about four weeks and during this period structure in question needs protection. Learned counsel appearing for the Municipal Corporation opposed this prayer. However, considering the technical defect in the plaint, it would

be necessary for the appellant/ plaintiff to amend plaint.

. In the above view of the matter, appellant is allowed to withdraw Notice of Motion No.5408 of 2000 taken out in L.C.Suit No.6315 of 2000 with liberty to move fresh notice of motion after amendment to the plaint.

. Needless to mention that the respondent - Corporation shall not take action for a period of four weeks.

. At this juncture, it will not be out of place to mention that in the event appellant/ plaintiff takes out fresh notice of motion, the trial Court shall decide the same on its own merits without getting influenced by the protection for four weeks afforded by this Court. All rival contentions are kept open.

. Appeal stands disposed of in terms of this order with no order as to costs.

. All the concerned to act on ordinary copy of this order duly authenticated by the Associate/ Personal Secretary of this Court.

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